IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8603 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAIRMAN, ONGC LTD

Versus

RIGMAN & TOPMAN ASSOCIATION

Appearance:

1. Special Civil Application No. 8603 of 2000

MR RAJNI H MEHTA for Petitioner No. 1

Mr.R.C. Shukla, Office Secretary of the respondent-Association, PARTY-IN-PERSON for the respondent.

Mr.Krishnan G. Pillai, learned advocate for respondent.

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 15/01/2003

ORAL JUDGEMENT

The present petition is filed challenging the judgement and award passed by the Central Industrial Tribunal, Ahmedabad in Reference (ITC) No.16 of 1992 dated 29.2.2000. The learned Judge directed the first party, ONGC to publish and declare the job specifications of Rigman, Topman and A.T. (ROM), i.e. Assistant Technician (Rig Operation Maintenance), within 30 days. The learned Judge also ordered that the first party shall pay after the date of the order the salary of the higher category for such period for which the work of higher category is taken.

2. Mr.Mehta, the learned advocate appearing for the petitioner corporation submitted that this award has become infructuous because the employees for whom the union, viz. the General Rigman & Topman Association which is not a recognised union had filed the reference are no more in the aforesaid cadres as they are already promoted to a higher cadre of Assistant Driller, prior to the date of award, i.e. 29.2.2000. He also submitted that besides on 2.2.2000 a settlement under section 12(31) of the Industrial Disputes Act, 1947 was arrived at between the Management and the association which had filed the reference.

3. Mr. Mehta submitted that so far as the cadre titled as 'AT (ROM)' is concerned, the same is no more in existence as all employees of the cadre of 'AT (ROM)' are promoted to higher post and no new person is recruited in the said cadre. So far as the cadre of Rigman and Topman are concerned this direction is required to be quashed and set aside because if such job specification is published it will hamper the smooth working of the organisation. He submitted that such job specification was never published. Mr.Mehta submitted that it is not possible for the first party to publish the job specification mainly on the ground that the work performed by the Rigman, Topman and other persons working on the 'RIG' (a set up for drilling at a particular place to find out oil/ gas) is so intermingled that it is not possible to lay down the job specifications for individual cadre. He submitted that persons from various disciplines work at a RIG, such as, 'drilling', 'production', 'engineering', 'geophysics' and so on. Every one has to put his head together to see that the operation of locating oil/ gas is successful. He submitted that by providing job specifications, the establishment will invite serious problems, which in turn will adversely affect the working of the Corporation resulting in adversely affecting the interest of the nation. He submitted that publication of job

specification is likely to be proved hazardous and may result into loss of life and property. He invited the attention of the Court to para 6(3) of the petition, which reads as under:

> "The petitioners submit that the work of Rigman and Topman as a team is Tripping work and is round the clock continuous work, wherein cementing and casing is also done if there is interruption, a Well, which is being drilled might get stuck up and the other complication may arise resulting into a colossal loss to ONGC and to the Nation. The petitioners say so because loss of petroleum products results into country buying petroleum products by spending valuable foreign exchange."

Mr.Mehta's submission though emotionally appealing cannot be accepted in a Court of law. Submission of Mr.Mehta that there is a cadre in an organisation without there being a job specification for the same does not sound normal, this Court is at loss to contemplate a situation in which a cadre exists without job specifications. With the existence of a cadre job specification for the same comes in to existence. It is possible that besides the job specification for a cadre, it may be compulsory for every employee of the organisation to answer the call of duty at the time of emergency. His efficiency in answering the call of duty may be a matter of appreciation and can be taken into account while considering his case for promotion. The submission that once the job specification is provided the employees of the organisation will not perform any duty outside the job specified and will shirk their responsibility cannot be a good excuse for not providing the job specification. Any cadre in an organisation is bound to have a 'job specification'. Be it a driver, a peon, water server or any technical cadre in any branch. A cadre is bound to have its 'job specification'. In fact, a cadre cannot exist without there begin a job specification.

4. Mr.Mehta invited the attention of the Court to a diagram produced at page 84. The diagram is of an 'Oil Well RIG'. The diagram depicts a platform at about 3 to 4 meters height from the ground level, it also depicts another platform which is hanging at a height of about 30 meters from the ground level. The diagram also depicts that persons in the cadre of 'Topman' work at the hanging platform at the height of 30 meters while the Rigman works at lower platform. ONGC had examined two witnesses to bring home their contention that it is not possible

for ONGC to provide for job specification for the cadres referred to hereinabove on account of the nature of work which is very complicated and complex being continuous in nature and in the nature of team work. Mr.Mehta submitted that stoppage of drilling operation at the RIG even for a minute can result into any of the aforesaid consequences, like loss of life and property and in the end result adversely affecting the national interest.

5. The witness Mr.Ashimroy A. Chaudhary, exh. 27 has deposed that the entire operation can be divided into the following parts, (i) Erection of RIG, (ii) Drilling and tripping operation, (iii) After oil is struck handing over the well to the Production Department, (iv) Dismantling and shifting of RIG to a new place. It is stated that 'erection of RIG', 'dismantling of RIG' and 'shifting of RIG' forms 80% of the total work, while 'drilling and tripping operation' is just 15% and remaining 5% is, production people taking charge of the well. He submitted that the demand and insistence of the Union for providing job specification is only for this 15% part of the entire work. Mr.Mehta submitted that so far as the erection, dismantling and shifting of RIG is concerned it is always with a very fine coordination because without that it is just not possible to get it done. Not only that for this part there is no demand of job specification by anybody anywhere in the organisation all through out the country. The demand is made by the present Union only which is not a recognised Union.

6. The learned advocate appearing for the respondent submitted that the demand was required to be raised because when a Rigman who is otherwise supposed to work at the lower platform is asked to work at the upper platform and at that time, if an accident takes places then the question arises as to whether he being a Rigman was discharging the duties as a Rigman or a Topman and whether he is entitled for compensation as Rigman or Topman. The question assumes importances because as Rigman he is entitled for compensation of smaller amount while as Topman the higher. Other points which arise for consideration are whether he was performing the duties as Topman, duly authorised for the same. The answer determines the question of compensation. Unless job specification is provided for various cadres it will not be possible to find answer to the aforesaid question(s).

7. Mr.Mehta invited attention to the contents of para 6(2)(f) which reads as under:

"In the event of implementing the award, it would

have wider repercussion on other disciplines like production geology, chemistry and geophysics and their functions would be affected adversely. As already mentioned the work of activities in the field is a coordinated team work and cannot be compartmentalised as has been evident in the award."

8. The fact that there are different disciplines recognised in the petitioner corporation, it is possible only on the basis of job specification of each discipline. It is also true that all these disciplines have been working for all this time with required coordination and the resultant effect of that is smooth working of the organisation. But then what is required for smooth working is the presence of this coordination and not the absence of job specification. In fact along with job specification for each cadre what is further required is fine discipline among the workers. At the time of any emergency, an employee of any discipline, present on the spot must answer to the call of duty and he should not shirk the responsibility by saying that a particular job which he is required to do, to answer the call of duty does not fall within his job specification. For example, if a person who is from Geology Department is present and the call of duty warrants him to handle a job which is otherwise supposed to be done by a Rigman of Production discipline, unless that handling requires any specific technical knowledge, he must handle the same.

9. By all his submissions the attempt of Mr.Mehta is to convince the court to hold that if ONGC will provide job specifications it will so happen that at a given point of time when there will be a call of duty, a person will not discharge his duty by saying that this does not fall within the job specification of his cadre. But then as discussed above, the solution is to have a fine discipline, high degree of coordination and sense of responsibility created amongst all the employees of the organisation.

10. Be that as it may, the fact remains that this Court is examining an award passed by the Industrial Tribunal whereby ONGC is directed to publish the job specification of the cadre of Rigman, Topman and AT(ROM). It is not possible for this Court to interfere with the aforesaid award accepting the submissions of Mr.Mehta to the effect that if job specification will be provided. published it will hamper the working of the entire organisation.

11. Mr.Mehta, the learned advocate also submitted that the award is not valid as it has exceeded the terms of reference. Mr.Mehta could not successfully bring home this point.

12. Mr.R.C. Shukla, Secretary of the aforesaid Association submitted that the submissions of Mr.Mehta that cadre of 'AT (ROM)' is no more in existence, is not wholly true. He submitted that ONGC is now having the same cadre as that of Assistant Rigman. Be that as it may as the Court is not pronouncing on the point of existence of any cadre in this petition, the submissions do not warrant any attention of the Court.

13. With the aforesaid discussion this petition fails. Dismissed accordingly. Rule is discharged. No order as to costs.

14. Mr.Mehta submitted that interim relief which operated all along against operation and implementation of the award be further continued for a period of 12 weeks. The request is reasonable. Operation and implementation of this order is stayed for a period of 12 weeks from the date of the receipt of this order by the petitioner corporation.

(Ravi R. Tripathi, J.)

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